IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.489/98

Rambax & Ors. **Versus** State & Anr.

DATE OF ORDER :: 03/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. D.G. Chaturvedi, for petitioners
Mr. Rajesh Moondia, for respondent

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Instant petition is directed against the order dated 1st February, 1997 whereby learned trial Judge took cognizance against accused-petitioners u/ss.147, 341, 323/149 IPC – against which revision petition was preferred that too has been dismissed by a detailed order dated 24th February, 1998.

For the alleged incident took place on 4th December, 1995, complainant Chatar Singh lodged a report on which FIR was registered and after investigation, Investigating Officer submitted FR. After perusal of FR and statement recorded of the accused party and taking note of medical report and x-ray report of injured, took cognizance against accused-petitioners. It is relevant to mention at this stage that for the said alleged incident, the present accused-petitioners have also lodged FIR against complainant party and a Criminal Case No.162/95 was registered against them u/ss.307, 324, 325,

447 & 147 IPC and despite opportunity being afforded to the parties, no one has been able to inform about the final fate of Criminal Case No.162/95 which was registered against the present complainant-respondent herein.

Basic objection raised by counsel for petitioner is that once the Police after investigation, has submitted negative Final Report, it was necessary for learned trial Judge while taking cognizance to take note of the negative Final Report and was required to pass a reasoned order as to why he disagreed with the observation which has been made by the Investigating Officer in his Report while taking cognizance against accused-petitioners under order impugned dated 1st February, 1997. In support of his contention, counsel placed on the judgments of this court reported in 1997 RCC-28 & 1996 Criminal Law Reporter-453.

Counsel for respondent while supporting the order of learned trial Judge, submits that not only the FR, but the statement which was recorded during investigation u/s.161 Cr.P.C. and after due perusal of site plan and so also medical report & X-ray report of the injured, learned trial Judge has taken cognizance and while taking cognizance, reasoned order is otherwise not required since any observation made will be taken as opinion expressed at the stage of taking

cognizance which is not required under law.

I have considered the submission of counsel for parties and perused the order impugned.

From bare perusal of order taking cognizance by learned trial Judge dated 1st February, 1997, it revealed that he has looked into Final Report and the statement, particularly, of Chatar Singh, Veer Singh, Parvat Singh & site plan and has also taken note of medical report and X-ray report of injured and prima facie came to the conclusion that offence has been committed and accordingly, has taken cognizance against the accused-petitioners under order impugned dated 1st February, 1997. The Court of Revision has also examined the same in detail and after due perusal of the negative Final Report submitted by Investigating Officer and taking note of medical report including X-ray report and so also the statement recorded u/s.161 Cr.P.C., found no error committed by learned trial Judge in taking cognizance against accused-petitioners.

This court does not find any error committed by learned trial Judge in taking cognizance against accused-petitioners.

As regards the submission made by counsel that the order impugned dated 1st February, 1997 is non-speaking order and the negative Final

Report submitted by the Investigating Officer has not been properly considered and appreciated while taking cognizance, is of no substance for the reason that learned Judge was supposed to consider the record of the case including negative Final Report which have been looked into while taking cognizance and detail reason while taking cognizance is otherwise not required. It is to be made clear at this stage that reasons are to be supported when one is to be discharged and not at the stage of taking cognizance. The judgments on which counsel placed reliance are not applicable in the facts of instant case and are of no assistance to him.

Consequently, this court finds no substance in the misc. petition, the same stands dismissed. Record be sent back immediately to trial court who is expected to proceed further with the matter in accordance with law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.